

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: MESSINA

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Serial No.: 10/810829
Filed: 26 March 2004
For: COMPUTER-BASED SYSTEM AND COMPUTER PROGRAM FOR
INTERROGATING A USER AND GENERATING A RESULT BASED
UPON THE USER'S INTERROGATORY RESPONSES

RESPONSE

Dear Sir,

In response to the final Official Action of 19 September 2008, please consider the following remarks made in connection with the above-referenced application.

Claims 1-5 and 6-19 are pending in this application. Of these, the examiner continues both his rejection of claims 1-2, 4-5 [sic], 8-11, 13-14 and 17-19 as being anticipated by Sendowski, USPN 2003/0198834, as well as his rejection of claims 3, 6-7, 12, and 15-16 as being unpatentably obvious over Sendowski as applied to claims 1 and 2, and further in view of Parker, USPN 5909589. In respect of the Declaration under 37 CFR Section 1.131 which Applicant submitted in response to the Official Action of 13 December 2007 in order to traverse the aforesaid rejections by swearing behind the Sendowski application, the examiner takes the position "that the evidence presented by the applicant is not such that one of ordinary skill in the art would be satisfied to a reasonable certainty that the subject matter necessary to antedate the reference possessed the alleged utility." Official Action, p. 3 (*emphasis original*). Applicant respectfully disagrees.

Without acquiescing in the examiner's interpretation or application of the Parker and Sendowski references, or the combination of them, Applicant submits that the evidence of record, including the Supplemental Declaration submitted concurrently herewith, clearly demonstrates that the subject invention possessed, prior to 29 March 2002, the alleged utility. More specifically, Applicant identifies in the said Supplemental Declaration how the evidence of the prior-filled Declaration shows that the claimed